

Alexander F. Giovanniello (CSB # 125562)
Joseph M. Lorant (CSB# 327731)
GIOVANNIELLO LAW GROUP
Six Pointe Drive, Suite 520
Brea, California 92821

Ph: (714) 364-4000
Fax: (714) 364-4001

Attorneys for Defendant:
DESERT VALLEY HOSPITAL, LLC
dba DESERT VALLEY HOSPITAL

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

COLLEEN MANGHANE; and
ROBERT MANGHANE,

Plaintiffs,

vs.

COUNTY OF SAN BERNARDINO;
SHANNON D. DICUS; DESERT
VALLEY HOSPITAL; and DOES 1-
15, inclusive.

Defendants.

) Case No.: 5:25-cv-01107 JGB (DTBx)

)
) Related Case No.: 5:25-cv-00140-
) WLH-SHK

)
) NOTICE OF MOTION AND MOTION
) TO DISMISS PLAINTIFFS'
) COMPLAINT BY DEFENDANT
) DESERT VALLEY HOSPITAL, LLC
) dba DESERT VALLEY HOSPITAL

)
) DATE: August 11, 2025
) TIME: 9:00 a.m.
) CRTRM.: 1

)
)
) JUDGE: Hon. Jesus G. Bernal

)
) Complaint filed May 29, 2025

)
) Trial scheduled: None
)

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on August 11, 2025 at 9:00 a.m. or as soon thereafter as the matter may be heard, in Courtroom 1 of the Twelfth Street Courthouse of the above-captioned court, located at 3470 Twelfth Street, Los Angeles, CA, 92501, Defendant DESERT VALLEY HOSPITAL, LLC dba DESERT VALLEY HOSPITAL (hereinafter referred to as “Desert Valley Hospital”) will, and hereby, moves to dismiss the Complaint filed by Plaintiffs COLLEEN MANGHANE and ROBERT MANGHANE (hereinafter collectively referred to as “Plaintiffs”). This Motion to Dismiss for Failure to State a Claim (hereinafter referred to as “this Motion”) seeks relief pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure on the grounds that Plaintiffs’ Complaint is insufficient as it fails to assert any facts to support the claims against Desert Valley Hospital. Specifically, and where all facts raised in the Complaint are taken as true, the causes of action against Desert Valley Hospital for Negligence and Wrongful Death (erroneously titled under a single claim as “Negligence”) fail as (1) Plaintiffs lack statutory standing to bring these claims, and (2) Desert Valley Hospital did not cause Plaintiffs’ injuries.

This Motion will be based upon this Notice, the accompanying Memorandum of Points and Authorities, the complete records and files in this action, and such further oral or documentary evidence that may be introduced at the hearing on this Motion. A Proposed Order regarding this Motion is filed jointly herewith.

This Motion is made following the attempted conferences of counsel

1 pursuant to Local Rule 7-3 wherein the parties could not resolve their differences.
2 By and through each parties' respective counsel, Desert Valley Hospital spoke
3 briefly with Plaintiffs on May 30, 2025, then sent a meet and confer letter to
4 Plaintiffs on June 16, 2025, with regard to their Complaint. The parties had a
5 telephone call thereafter, wherein the substance of a motion to dismiss against
6 Plaintiffs' Complaint had been discussed.

7 It had been agreed that the deadline for Desert Valley Hospital to file and
8 serve its responsive pleadings would be continued by thirty days, which this Court
9 approved via written stipulation and order, so the parties could further confer on
10 the issues regarding this Motion. Such efforts, however, failed to materialize, thus
11 this Motion proved necessary, as an agreement to continue the deadline to respond
12 had not been received.

13
14 Dated: July 18, 2025

GIOVANNIELLO LAW GROUP

15
16 By:



Alexander F. Giovanniello

Joseph M. Lorant

Attorneys for Defendant

DESERT VALLEY HOSPITAL, LLC dba

DESERT VALLEY HOSPITAL

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs filed their Complaint on May 29, 2025, which asserts eight causes of action. Complaint, at 1. Of these eight, however, only the Seventh Cause of Action for “Negligence” is brought against Desert Valley Hospital; all causes, including this, are against Defendants COUNTY OF SAN BERNARDINO and SHANNON D. DICUS (hereinafter referred to as “the County Defendants”). Complaint, at 4-6 (identifying all defendants); 10, 12, 14, 21, 26, 31, 33, and 36 (the headings for each cause of action identifying applicable defendants). Plaintiffs, “the court ordered permanent legal guardians and foster parents of Decedent bring this action individually and as successors-in-interest to Decedent”, yet they failed to file and serve an affidavit demonstrating their rights over all others to sue on behalf of Decedent. Complaint, ¶ 8. Further, Decedent’s biological parents are his “surviving issue” for intestacy purposes. Request for Judicial Notice (citing related litigation pursuant to Local Rule 83-1.3).

The central facts asserted for all causes of action involve the fatal shooting and death of Aaron James (hereinafter referred to as “Decedent”), the foster child of whom Plaintiffs held guardianship over. Complaint, ¶¶ 1-8.¹ The sole alleged involvement of Desert Valley Hospital is that it had been the initial receiving

¹ Desert Valley Hospital does not admit or deny any factual allegation raised against the Police Defendants, nor is such necessary to be done. Regardless of the actual factual bases supporting Plaintiffs’ claims, a motion to dismiss such as this tests the legal sufficiency of claims raised by accepting all facts alleged as true to see if the legal conclusions are validly supported thereby. See supra, §III.

1 facility to treat Decedent's condition while under a 72-hour mental health
2 protection hold pursuant to Welfare and Institutions Code section 5585.50
3 (hereinafter referred to as a "5585 hold"), and later in facilitating Decedent's
4 transfer to a mental health facility for further care.² Complaint, ¶¶ 14-15, 28-30,
5 and 112. After Decedent's escape therefrom, the County Defendants attempted to
6 detain Decedent from his home. Complaint, ¶ 32.

7 Unfortunately, at some point during this attempted apprehension, it is
8 claimed that the County Defendants wrongfully killed Decedent:

9 [The County Defendants] breached the bathroom door and charged
10 toward Decedent, then used force including deadly force against
11 Decedent Additionally, [the County Defendants] failed to
intervene on the use of excessive and unreasonable force being used
on Decedent

12 ...

13 [The County Defendants] violated their own policies and basic officer
14 training when they used force, ... against Decedent.

15 The use of force was excessive and objectively unreasonable under
the circumstances, especially because the unarmed Decedent did not
pose an immediate threat of death or serious bodily injury ..., the
16 Deputy DOES had reasonable alternatives, the Deputy DOES did not
give a warning that deadly force would be used, and the 17-year-old
17 Decedent did not verbally threaten any person or deputy.

18 Complaint, ¶¶ 33-42. Plaintiffs claim that the County Defendants failed to
19 account for Decedent's lack of violent tendencies and that they "were equipped
20

21 ² The Complaint erroneously references Welfare and Institutions Code section
22 5150. While both sections function the same, a 5150 hold applies to adults, and a
23 5585 hold applies to minors. T.L. v. City Ambulance of Eureka, Inc., 83 Cal.
App. 5th 864, 870, 875, 299 Cal. Rptr. 3d 797, 801, 804, fn. 2 (2022)

1 with less-legal force options that could have been employed” while “[additionally,
2 considering the number of [deputies] on scene against the sole Decedent, ..., the
3 use of force and deadly force against Decedent was objectively unreasonable.
4 Complaint, ¶¶ 43-49, 57; ¶¶ 99-108.

5 To be clear, it is alleged not only that the County Defendants “were not
6 responding to a serious or violent crime,” but that they also “did not have any
7 information that any person was harmed or about to be harmed by Decedent.”
8 Complaint, ¶ 33; see also ¶¶ 4, 34, 37, 41, 46, 57, 63, 67, 93, 102, 122-123 (claims
9 that Decedent not an immediate threat to self or others). Such purported conduct
10 “constitute[d] a violation Plaintiffs' and Decedent's Fourteenth Amendment
11 Substantive Due Process right to be free from unlawful state interference with
12 their familial relationship” Complaint, ¶ 58 (Second Cause of Action).
13 Plaintiffs further claim “[the County Defendants] acted under color of state law
14 and within the course and scope of their employment by maintaining
15 unconstitutional, customs, practices, and policies” having “acted pursuant to an
16 expressly adopted or fiscal policy or longstanding practice or custom”; and the
17 allegedly errant actors “were not ... penalized”, demonstrating inadequate
18 supervision, training, and/or control. Complaint, ¶¶ 63-69 (Third Cause of
19 Action); ¶¶ 79-83 (Fourth Cause of Action); ¶¶ 89-94 (Fifth Cause of Action).
20 Such pattern is purportedly proven through other lawsuits. Complaint, ¶¶ 72-73,
21 84, 95.

22 Even further, the County Defendants purportedly interfered with
23 Decedent’s and Plaintiffs’ “exercise or enjoyment of [their] constitutional rights

1 by threats, intimidation, or coercion, including by the use of unconstitutionally
2 excessive force ... with specific intent to deprive” them of such rights.
3 Complaint, ¶¶ 121-129 (Eighth Cause of Action). All such alleged had been
4 willful, wanton, malicious, intentional, oppressive, reckless and/or with willful
5 and conscious disregard of Plaintiffs’ rights. Complaint, ¶¶ 52, 59, 71, 82, 91,
6 106, 124, 129.

7 From these collective facts, Plaintiffs assert their “sole” cause of action
8 against Desert Valley Hospital. Again, not only are Plaintiffs suing individually
9 for Wrongful Death, but they also purportedly are suing on Decedent’s behalf in a
10 “survival” manner. Complaint, ¶¶ 8, 116, 119. The only facts supporting the
11 Seventh Cause of Action for “Negligence”, are rather sparse and conclusory.

12 [Desert Valley Hospital] had a duty and responsibility to provide
13 adequate care, protection, and security for their patient, provide
14 appropriate facilities and personnel for adequate evaluation and
15 treatment. Further, when accepting a patient on a [5585] hold, a
16 medical facility and personnel, [Dessert Valley Hospital had] a duty
17 and responsibility to provide adequate mental health treatment.

18 Complaint, ¶ 112. In other words, the purported duty owed is for Desert Valley
19 Hospital to protect Decedent from harm by its own conduct or his own conduct,
20 rather than the actions of the County Defendants.

21 In conclusory fashion, without explanation or instruction, Desert Valley
22 Hospital breached said duty, “failed to adequately treat Decedent during
23 approximately three days under their custody and responsibility, and allowed
Decedent to escape custody during a mental health crisis.” Id. However,
Plaintiffs make clear their allegation that the County Defendants, who had

1 purportedly been “negligent and reckless” with twelve different duty-based
2 violations, “are liable for Plaintiffs’ and Decedent’s injuries on this claim, either
3 because they were integral participants ..., or ... failed to intervene to prevent
4 these violations.” Complaint, ¶¶ 114-115. “Defendant Deputies are *directly liable*
5 for their actions and inactions ...” Complaint, ¶ 117 (emphasis added).

6 Plaintiffs served the Complaint upon Desert Valley Hospital on May 29,
7 2025, thus, Desert Valley Hospital timely seeks the dismissal of the Complaint on
8 the grounds that it fails to assert facts supporting Plaintiffs’ claims.

9 **II. THE FILING OF A 12(B)(6) MOTION TO DISMISS IS TIMELY**
10 **AND PROPER**

11 A motion to dismiss is timely if filed “any time before the responsive
12 pleading is filed. (Citation).” Aetna Life Ins. Co. v. Alla Medical Services, Inc.,
13 855 F.2d 1470, 1474 (9th Cir. 1988). FRCP 12(b) requires filing of responsive
14 pleadings be due twenty-one days after service of a complaint. As Plaintiffs
15 served their Complaint on May 29, 2025, and Desert Valley Hospital filed and
16 served this Motion timely before June 19, 2025, this Motion is timely.

17 **III. THE COMPLAINT FAILS TO STATE A CLAIM FOR WHICH**
18 **RELIEF CAN BE GRANTED**

19 A Rule 12(b)(6) motion tests the legal sufficiency of the claim or claims
20 stated in the complaint. Strom v. United States, 641 F.3d 1051, 1067 (9th Cir.
21 2011). In general, a court will measure “legal sufficiency” by whether it meets
22 Rule 8 of the Federal Rules of Civil Procedure, which requires “[s]imple, concise
23 and direct” allegations. “The complaint is to be liberally construed in favor of the

1 plaintiff, and its material allegations taken as true.” Fednav Ltd. v. Sterling Int’l,
2 572 F. Supp. 1268, 1270 (N.D. Cal. 1983).

3 Dismissal under a Rule 12(b)(6) motion is proper when a complaint either
4 (1) fails to allege a “cognizable legal theory” or (2) fails to allege sufficient facts
5 “to support a cognizable legal theory.” Caltex Plastics, Inc. v. Lockheed Martin
6 Corp., 824 F.3d 1156, 1159 (9th Cir. 2016). “Only when the pleading fails to
7 meet this liberal standard should it be dismissed under Rule 12(b)(6).” Fednav
8 Ltd., supra, at 1270. “[T]his court must presume that the plaintiff’s allegations are
9 true and grant the motion only if it appears ‘beyond doubt’ that the plaintiff can
10 prove no set of facts entitling it to relief.” Kentucky Cent. Life Ins. Co. v. LeDuc,
11 814 F. Supp. 832, 835 (N.D. Cal. 1992) (citations omitted).

12 “While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not
13 need detailed factual allegations [citations], a plaintiff’s obligation to provide the
14 ‘grounds’ of his ‘entitle[ment] to relief’ requires more than labels and conclusions,
15 and a formulaic recitation of the elements of a cause of action will not do
16 [citation]. Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). The facts
17 alleged must state a facially plausible claim for relief as per the Twombly/Iqbal
18 standard. Shroyer v. New Cingular Wireless Services, Inc., 622 F.3d 1035, 1041
19 (9th Cir. 2010); see Atieh v. Riordan, 727 F.3d 73, 76 (1st Cir. 2013) (facially
20 plausible standard “is a screening mechanism designed to weed out cases that do
21 not warrant either discovery or trial”).

22 As such, and while courts “do accept all of the factual allegations in the
23 complaint as true, *id.*, we do not accept legal conclusions in the complaint as true,

1 even if ‘cast in the form of factual allegations.’ [Citation.]” Lacano Investments,
2 LLC v. Balash, 765 F.3d 1068, 1071 (9th Cir. 2014). “Threadbare recitals of
3 elements of a cause of action, supported by mere conclusory statements, do not
4 suffice.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Where a complaint does
5 not permit a court to infer more than the mere possibility of misconduct, then it
6 alleged—but has not shown—that the pleader is entitled to relief; such is
7 insufficient to survive a motion to dismiss for failure to state a claim. Id., at 679.

8 Here, there are no facts asserted against Desert Valley Hospital amounting
9 to more than “[t]hreadbare recitals of elements of a cause of action, supported by
10 mere conclusory statements”. Id., at 678. As expressed below, Plaintiffs do not
11 maintain the necessary relationship with Decedent such as to raise their cause(s)
12 of action. Further, the facts presented are minimal in comparison with the
13 conclusions stated. While receiving medical care at Desert Valley Hospital under
14 a 5585 hold, and during transfer to another location for further mental health
15 treatment, Decedent escaped; and that Desert Valley Hospital knew that his escape
16 could pose a vague risk of harm. Complaint, ¶¶ 14-15, 28-30, and 112. These
17 facts alone, if taken as true, do not prove the claims raised.

18 **A. Plaintiffs’ Seventh Cause Of Action For Negligence, Which Is Truly**
19 **The Improper Combination Of Two Separate Claims, Must Be**
20 **Dismissed With Prejudice As They Cannot Be Raised Since Plaintiffs**
21 **Lack Statutory Standing Under The California Code of Civil Procedure**

22 Again, not only are Plaintiffs suing individually for Wrongful Death, but
23 they also purportedly are suing on Decedent’s behalf in a “survival” manner in the

1 same cause of action. Complaint, ¶¶ 8, 116, 119. This is an improper
2 combination of two separate claims.

3 Wrongful Death is a statutory claim that plaintiffs may assert when
4 defendants' breach of duty or neglect causes death. Code of Civil Procedure,
5 §377.60. The elements of a wrongful death action are a tort (negligence or other
6 wrongful act), resulting death (causation), and loss (damages) suffered by the
7 heirs, and if the tort is negligence, plaintiffs must, of course, prove defendants'
8 duty and breach thereof and causation of damages. See Lattimore v. Dickey, 239
9 Cal.App.4th 959, 968 (Ct. App. 2015).

10 A cause of action that survives the death of a person, however, is distinct
11 from Wrongful Death, where the latter is technically a cause of action belonging
12 to the decedent and is being brought by the decedent's successor-in-interest or
13 personal representative. Id. Separately, Code of Civil Procedure section 377.30
14 provides that, "[a] cause of action that survives the death of the person entitled to
15 commence an action or proceeding passes to the decedent's successor in
16 interest... and an action may be commenced by the decedent's personal
17 representative or, if none, by the decedent's successor in interest....' (Code of
18 Civil Procedure, §377.34)." Quiroz v. Seventh Ave. Center, 140 Cal.App.4th
19 1256, 1264–1265 (Ct. App. 2006).

20 Both causes of action are "creatures of statute", coming from the Code of
21 Civil Procedure. See Lewis v. Reg'l Ctr. of the E. Bay, 174 Cal. App. 3d 350, 355
22 (Ct. App. 1985). As such, strict adherence to these statutes is required. Where
23 there is no statutory standing, as opposed to Article III standing, a motion to

dismiss under FRCP 12(b)(6) is appropriate. AnywhereCommerce, Inc. v. Ingenico, Inc., 517 F. Supp. 3d 45, 49 (D. Mass. 2021).

Under California's wrongful death statute, a cause of action for wrongful death may be asserted by:

(a) The decedent's surviving spouse, children, and issue of deceased children, or if there is no surviving issue of the decedent, the persons, including the surviving spouse, who would be entitled to the property of the decedent by intestate succession.

(b) Whether or not qualified under subdivision (a), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, or parents.

Cal. Code Civ. P. § 377.60.

The parent of a decedent cannot assert a wrongful death action where the decedent is survived by a child. See Cal. Code Civ. P. 377.60(a).

V.R. v. San Bernardino Cnty., No. EDCV191023JGBSPX, 2022 WL 656133, at *7 (C.D. Cal. Feb. 3, 2022).

Here, Plaintiffs are the legal guardians and or foster parents of Decedent, and Decedent does have surviving issue. Complaint, ¶ 8; Request for Judicial Notice. Therefore, under this statutory construction, Plaintiffs do not have standing to raise their Wrongful Death claim against Desert Valley Hospital as they are not potential plaintiffs. Lewis, supra, at 354-355, 220 Cal. Rptr. at 91-92; see also Cosentino v. Kurtz, No. CV1103206GAFSSX, 2012 WL 12883842, at *6 (C.D. Cal. Dec. 11, 2012) (citing Lewis); Smallwood v. Am. Trading & Transp. Co., 868 F. Supp. 280, 283 (N.D. Cal. 1994), decision supplemented, No. C-92-0869 MHP, 1994 WL 735929 (N.D. Cal. Dec. 30, 1994) (citing Lewis).

A similar issue arises with Plaintiffs' survival action for Negligence.

1 California's statutory requirements for standing to bring a survival
2 action are stated under California Code of Civil Procedure § 377.30:
3 “A cause of action that survives the death of the person entitled to
4 commence an action or proceeding passes to the decedent's successor
5 in interest ..., and an action may be commenced by the decedent's
6 personal representative or, if none, by the decedent's successor in
7 interest.” [Citation] (“Where there is no personal representative for
8 the estate, the decedent's ‘successor in interest’ may prosecute the
9 survival action if the person purporting to act as successor in interest
10 satisfies the requirements of California law....”) (citation omitted).
11 Plaintiffs have alleged that they are bringing many of their claims as
12 successors in interest, but there is a question as to whether the
13 requisite affidavit to commence a survival action as Johnathan's
14 successor in interest has been filed. [Citations.]

15 Rose v. Cnty. of Sacramento, 163 F. Supp. 3d 787, 797 (E.D. Cal.
16 2016)

17 To establish oneself as a decedent's successor in interest, California
18 law requires a person to “execute and file an affidavit or a declaration
19 under penalty of perjury under the laws of this state.” Cal. Civ. Proc.
20 Code § 377.32(a). The affidavit or declaration must state, among
21 other information, that “[n]o proceeding is now pending in California
22 for administration of the decedent's estate,” that “[t]he affiant or
23 declarant is the decedent's successor in interest (...) and succeeds to
the decedent's interest in the action or proceeding,” and “[n]o other
person has a superior right to commence the action or proceeding or to
be substituted for the decedent in the pending action or proceeding.”
Id. Moreover, federal law requires any declaration filed in federal
court to be made under penalty of perjury. 28 U.S.C. § 1746.

17 Torres v. Nat'l Passenger R.R. Corp., No. 2:23-CV-01066-ODW (KESX), 2024
18 WL 4008640, at *3 (C.D. Cal. Aug. 30, 2024).

19 “For the purposes of this chapter, ‘decedent's successor in interest’ means
20 the beneficiary of the decedent's estate or other successor in interest who succeeds
21 to a cause of action or to a particular item of the property that is the subject of a
22 cause of action.” Code of Civil Procedure, §377.11. Plaintiffs, the legal
23 guardians and/or foster parents of Decedent, do not fall into the categories of

persons able to make a survival claim under Code of Civil Procedure section 377.34; Complaint, ¶ 8; Request for Judicial Notice. Further, they did not file and serve an affidavit demonstrating their rights over all others to sue on behalf of Decedent. Code of Civil Procedure section 377.32(a); Torres, supra, at 3.

“If a complaint is dismissed for failure to state a claim, leave to amend should be granted unless the court determines that the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency.” Schreiber Distrib. Co. v. Serv-Well Furniture Co., Inc., 806 F.2d 1393, 1401 (9th Cir. 1986). In other words, “leave to amend may be denied, even if prior to a responsive pleading, if amendment of the complaint would be futile.” Albrecht v. Lund, 845 F.2d 193, 195 (9th Cir. 1988) (leave to amend fraud complaint denied as alleged misstatements “could not be misrepresentations” as a matter of law).

Without standing to sue under either California statute, the action against Desert Valley Hospital must therefore be dismissed as Plaintiffs failed to state a claim for which relief could be sought. FRCP 12(b)(6); Strom, supra, 641 F.3d at 1067; Caltex Plastics, Inc., supra, 824 F.3d at 1159; AnywhereCommerce, Inc., supra, at 49; Cosentino; Smallwood; Lewis. There are no facts possible to be pled that could cure these defects. Therefore, such dismissal must be made with prejudice. Schreiber Distrib. Co., supra, at 1401; Albrecht, supra, at 195.

B. Plaintiffs’ Seventh Cause Of Action For Negligence Is Conclusory As To The Acts Purportedly Taken By Desert Valley Hospital

“A claim for wrongful death has, as necessary elements, all the traditional elements of negligence, i.e., duty, breach of duty, causation, and damage.”

1 Colburn v. U.S., 45 F.Supp.2d 787, 790 (S.D. Cal. 1998). For the causes of action
2 for Wrongful Death and Negligence, the “facts” pled merely recite the breach of
3 duty, causation, and damage elements required to prove either claim: Desert
4 Valley Hospital had “a duty and responsibility to provide adequate care,
5 protection, and security for” Decedent and “a duty and responsibility to provide
6 adequate mental health treatment” for Decedent; but purportedly, Desert Valley
7 Hospital breached said duty, as it “failed to adequately treat Decedent during
8 approximately three days under their custody and responsibility, and allowed
9 Decedent to escape custody during a mental health crisis.” Complaint, ¶ 112.

10 Indeed, the nonconclusory facts pled show that Desert Valley Hospital had
11 not been the only claimed custodian of Decedent, as Defendants [all of them] were
12 allegedly aware of Decedent’s 5585 hold and of the risk to his well-being and
13 safety if he escaped and failed to ensure that he remained in custody and treated.
14 Complaint, ¶¶ 114-115. The facts pled demonstrate Plaintiffs claim that the
15 County Defendants “are directly liable for their actions and inactions.”
16 Complaint, ¶ 117 (emphasis added); ¶¶ 1-8, 33-49, 57-58, 63-69, 72-73, 79-83,
17 84, 89-95, 122-128.

18 Simply put, Plaintiffs do not plead with sufficient notice as to the basis for
19 their claims. This alone warrants dismissal of all claims against Desert Valley
20 Hospital for failure to assert “cognizable legal theories”, as required by FRCP
21 12(b)(6), and this Motion must therefore be granted. Strom, supra, 641 F.3d at
22 1067; Caltex Plastics, Inc., supra, 824 F.3d at 1159.

23 ///

C. The Causes Of Action for Wrongful Death And Negligence Raised Against Desert Valley Hospital Must Be Dismissed, With Prejudice, As No Set Of Facts Can Demonstrate Legal Causation

Even if the above arguments are not accepted, dismissal should be with prejudice as there are no facts that could be pled which, under any circumstances, would demonstrate causes of action for Wrongful Death or Negligence against Desert Valley Hospital. LeDuc, supra, 814 F. Supp. at 835.

As expressed above, leave to amend should not be granted if “the court determines that the allegation of other facts consistent with the challenged pleading could not possibly cure the deficiency.” Schreiber Distrib. Co., supra, 806 F.2d at 1401; Albrecht, supra, 845 F.2d at 195. Here, Plaintiffs raise one cause of action for Negligence, which is truly two causes for Wrongful Death by Plaintiffs and for survival on behalf of Decedent, both based upon the same operative facts.

Because Desert Valley Hospital is a health care provider (Complaint, ¶ 14), and as these two causes of action share common facts regarding the medical care and treatment provided to Decedent, they are best characterized as Medical Malpractice: (1) “a negligent act or omission to act by a health care provider in the rendering of professional services,” (2) “which act or omission is the proximate cause of injury or wrongful death,” (3) “provided that such services are within the scope of services for which the provider is licensed,” and (4) “which are not within any restriction imposed by the licensing agency or licensed hospital.” Holly v. Alta Newport Hosp., Inc., 612 F. Supp. 3d 1017, 1024 (C.D. Cal. 2020).

1 “Superseding conduct, as set forth in the Second Restatement of Torts,
2 breaks the chain of causation under California law.” Id. (citing Stewart v. Cox, 55
3 Cal. 2d 857, 864 (1961)). “[A] superseding cause is an act of a third person or
4 other force which by its intervention prevents the actor from being liable for harm
5 to another which his antecedent negligence is a substantial factor in bringing
6 about.” Restatement (Second) of Torts § 404.

7 An actor may be liable if the actor’s negligence is a substantial factor
8 in causing an injury, and the actor is not relieved of liability because
9 of the intervening act of a third person if the act was reasonably
10 foreseeable at the time of the original negligent conduct. The
11 foreseeability required is of the risk of harm, not of the particular
12 intervening act.

13 Rosencrans v. Dover Images, Ltd., 192 Cal.App. 4th 1072, 1087...
14 (Ct. App. 2011). However, an actor may not be liable for a third
15 party’s actions if the actor lacks the legal or practical ability to control
16 such criminal actions of third parties. [Citation.]
17 Baton v. Ledger SAS, 740 F. Supp. 3d 847, 909–10 (N.D. Cal. 2024) (cleaned
18 up). Thus, even a third-party crime does not necessarily cut off legal causation if
19 the risk of harm was reasonably foreseeable. Rosencrans, supra, 192 Cal. App.
20 4th at 1087. Even when a third party’s intervening act is unforeseeable, the
21 defendant’s conduct may continue to operate as a legal cause if the defendant
22 could reasonably foresee the injury resulting from his own conduct. Pappert v.
23 San Diego Gas & Electric Co., 137 Cal. App. 3d 205, 210 (Ct. App. 1982).

24 Better stated, this Court must “evaluate more generally whether the
25 category of negligent conduct at issue is sufficiently likely to result in the kind of
26 harm experienced that liability may appropriately be imposed” and “evaluate the
27 kind of third party conduct involved” in light of all the surrounding circumstances

1 as probative in assessing generally whether the category of defendant's alleged
2 negligent conduct is sufficiently likely to result in the kind of harm plaintiffs
3 experienced." T.L., supra, 83 Cal. App. 5th at 887 (emphasis added).

4 Causation ... may be decided by the Court when, although it is
5 assumed that all the facts asserted by the plaintiff are true, actual
6 causation cannot reasonably be established on the basis of those facts.
7 [Citations omitted]. This is because the existence of legal cause
8 "essentially depends upon whether the policy of the law will extend
9 the responsibility for the conduct to the consequences which have in
10 fact occurred." [Citations Omitted] ("What we do mean by the word
11 'proximate' is, that because of convenience, of public policy, of a
12 rough sense of justice, the law arbitrarily declines to trace a series of
13 events beyond a certain point" (quoting Palsgraf v. Long Island R.
14 Co., 248 N.Y. 339, 351-52, 162 N.E. 99 (1928) (Andrews J.,
15 dissenting))); [Citation.]

16 Estate of Macias v. Lopez (Macias), 42 F.Supp.2d 957, 965 (N.D.Cal.1999),
17 overruled on other grounds, 219 F.3d 1018 (9th Cir.2000).

18 Here, it is pled that the County Defendants engaged in unreasonable
19 misconduct to the effect of either (1) directly engaging in unreasonable use of
20 deadly force against Decedent, (2) implementing dangerous policies and
21 procedures allowing for or instructing on the unreasonable use of deadly force
22 against persons similarly situation to Decedent (i.e., minors with mental health
23 concerns), and/or (3) unreasonably failing to train, supervise, or discipline
24 personnel who committed the unreasonable use of deadly force against Decedent
25 (*among others*). Complaint, ¶¶ 1-8, 33-49, 57-58, 63-69, 72-73, 79-83, 84, 89-95,
26 114-115, 117, 122-128. It is unreasonable and unforeseeable for any negligence
27 on the part of Desert Valley Hospital (*which is not admitted here*) to be considered
28 causally connected to unreasonable use of force by the County Defendants or their

1 alleged unreasonable and dangerous policies and procedures or other practices
2 (*which, for purposes of motion to dismiss, must be accepted as true*).

3 For further comparative example, Lopez v. United States, 17-CV-04386-
4 MEJ, 2018 WL 807357 (N.D. Cal. Feb. 9, 2018) addressed an ICE officer's
5 failure to secure his firearm in his vehicle: "Defendant argues that proximate
6 cause cannot be established because the initial theft of the gun is an intervening
7 criminal act: a person other than the thief who stole the ICE officers' gun
8 committed another criminal act when he murdered Tony, and the killing occurred
9 two weeks after the theft, in a different city." Id., at *6. However, with the Court
10 accepting as true "the Complaint's allegation that the gun that killed Tony was
11 stolen from the ICE officers' vehicle", and acknowledging that "the Ninth Circuit
12 has previously rejected the argument that an intervening ***foreseeable*** crime by a
13 third party breaks causation under California law", it is a reasonable conclusion
14 (*again, with all facts accepted as true*) that the ***foreseeable*** risk of harm in
15 someone stealing the ICE officer's gun (*i.e., using deadly force upon another*)
16 would not break the chain of causation. Id. (emphasis added).

17 Here, the purpose of a hold under Welfare and Institutions Code section
18 5585 is to prevent self-harm or harm to others by a minor with a mental disorder
19 or other grave disability. L.J. by and through Jones v. Poway Unified School
20 District, No. 20CV1569-GPC(MDD), 2020 WL 7056283, at *9 (S.D. Cal., Dec. 2,
21 2020); Smith v. Cnty. of Kern, 20 Cal. App. 4th 1826, 1831 (Ct. App. 1993).
22 Self-harm is thus a foreseeable danger if a patient on a 5585 hold escapes. Spath
23 v. Cnty. of Santa Clara, 669 F. Supp. 3d 835, 847 (N.D. Cal. 2023) (escaping

1 patient under equivalent 5150 hold for adults sustained injuries after escaping and
2 falling from a tree). In T.L., the duty owed by a transporting ambulance to a child
3 under a 5585 hold during travel to a medical facility is to prevent said child's
4 escape, where it had been reasonably foreseeable that the child's escape would
5 cause self-harm, which a 5585 hold is specifically intended to prevent. Id., at 888.

6 "[W]e agree with defendants that plaintiff's arguments have largely focused
7 on a claim defendants should have used restraints and had they done so she would
8 not have been injured." Id., at 888. "We think it likely enough that negligence in
9 securing a patient for transport may result in injury to the patient, ***including***
10 ***because of the patient's own physical movement.***" Id. (cleaned up) (emphasis
11 added). To reach its decision, T.L. relied upon C.I. v. San Bernardino City
12 Unified School Dist.: "It is undeniable that shootings and other forms of violence
13 can and do happen ... ***But more than a mere possibility of occurrence is***
14 ***required since, with hindsight, everything is foreseeable.***" 82 Cal. App. 5th 974,
15 985 (Ct. App. 2022) (emphasis added).

16 The Court of Appeal held neither the school district nor the school
17 principal owed a duty to protect students and faculty from injuries
18 caused by a teacher's estranged husband who appeared at the school,
19 signed in at the office, and then entered his wife's classroom and shot
and killed her, a student, and then himself. ... on examining ..., the
court held ... against a duty to protect from the kind of unforeseeable
criminal conduct perpetrated by the estranged spouse.

20 T.L., supra, at 885 (citing C.I., supra, at 978-982).

21 For Plaintiffs' case, neither self-harm nor harm to others occurred. Instead,
22 there is the allegedly extreme and unforeseeable harm by police in the
23 unreasonable use of force upon Decedent. Complaint, ¶¶ 1-8, 33-49, 57-58, 63-

69, 72-73, 79-83, 84, 89-95, 114-115, 117, 122-128. The purported acts by the County Defendants, as pled by Plaintiffs, if accepted as true, absolutely would break the chain of causation. Baton, supra, at 909–10; Macias, supra, at 965.

Under no universe of possible facts alleged could Desert Valley Hospital be held responsible for mere possibility of Decedent being shot to death by a purportedly errant third-party, apparently committed through widespread policy, practice, and training (*or lack thereof*) by the County Defendants. T.L., at 888-889; C.I., supra, at 978-982; Complaint, ¶¶ 1-8, 33-49, 57-58, 63-69, 72-73, 79-83, 84, 89-95, 114-115, 117, 122-128. Thus, Desert Valley Hospital cannot be held liable for either of the Seventh Cause of Action for Negligence, either as Wrongful Death or as Decedent’s survival claim. Schreiber Distrib. Co., supra, at, 1401; Albrecht, supra, at 195. Therefore, this Court should grant this Motion and dismiss the Seventh Cause of Action against Desert Valley Hospital, with prejudice. Caltex Plastics, Inc., supra, 824 F.3d at 1159 LeDuc, supra, at 835.

D. Policies Favoring No Legal Or Proximate Causation Prohibit Extending Liability To Desert Valley Hospital In The Exercise Of Its Duties To Contact Law Enforcement

As taken supra, §3(C), this Court must assess “the existence of legal cause”, which “‘essentially depends upon whether the policy of the law will extend the responsibility for the conduct to the consequences which have in fact occurred.’ [Citations Omitted.]” Macias, supra, 42 F. Supp. 2d at 965. “In setting the outer bounds of legal causation, courts must examine the issue on a case-by-case basis, and in light of considerations of logic, common sense, justice, policy and

1 precedent.” Id. Such is a matter of law that Courts can determine. Id.; see also
2 Modisette v. Apple Inc., 30 Cal. App. 5th 136, 152, 154 (2018) (“[W]here the
3 facts are such that the only reasonable conclusion is an absence of causation, the
4 question is one of law, not of fact. ... “The extent or scope of a defendant's
5 liability is a question of law.”).

6 “[F]oreseeability is not the only aspect of legal causation at issue”. Macias,
7 supra, at 974. “[L]egal causation is, ultimately, a matter of public policy.” Id., at
8 976 (finding extension of legal causation inappropriate where such “would open
9 municipalities to unprecedented liability”). Phrased differently, “[b]ecause the
10 purported causes of an event may be traced back to the dawn of humanity, the law
11 has imposed additional limitations on liability other than simple causality ...
12 related not only to the degree of connection between the conduct and the injury,
13 but also with public policy.” Ferguson v. Lieff, Cabraser, Heimann & Bernstein,
14 30 Cal. 4th 1037, 1045 (2003).

15 Here, Plaintiffs claim that the custodial relationship between Desert Valley
16 Hospital and Decedent created duty of care, focusing solely on keeping Decedent
17 from escaping. To this point, Desert Valley Hospital agrees in the existence of an
18 ordinary duty of professional care regarding the prevention of escape. What
19 Plaintiffs do not state, however, is that there also exists a duty for Desert Valley
20 Hospital to call or otherwise contact law enforcement once Decedent escaped.

21 Law enforcement initiates the process of 5585 holds and provides authority
22 for such. Welfare and Institutions Code, §5585.50(a) (“When any minor, as a
23 result of mental disorder, is a danger to others, or to himself or herself, ..., a peace

1 officer, ..., upon probable cause, take, or cause to be taken, the minor into custody
2 and place him or her in a facility ... for 72-hour treatment and evaluation of
3 minors.”); see Harvey v. Alameda Cnty. Med. Ctr., 280 F. Supp. 2d 960, 968
4 (N.D. Cal. 2003), aff'd, 123 F. App'x 823 (9th Cir. 2005) (as related to 5150
5 holds). The duty to contact law enforcement if a held patient escapes is natural.

6 But if we accept the premise that Desert Valley Hospital is liable for the
7 actions of law enforcement, hospitals, like Desert Valley Hospital, would become
8 liable for calling law enforcement after a patient on a 5585 hold escapes.
9 Hospitals, like Desert Valley Hospital, would then become dissuaded for calling
10 local authorities, in abeyance of that duty. Such a result would goes against public
11 policy, as hospitals should not face adverse pressure or consequences for engaging
12 in their duties. Macias, supra, at 965; Modisette, supra, at 152, 154; Ferguson,
13 supra, at 1045.

14 For these reasons, and as no legal or proximate causation exists, dismissal
15 of this claim is appropriate. FRCP 8, 12(b)(6); Schatz, supra, 669 F.3d at 56;
16 Somers, supra, 729 F.3d at 966; Caltex, supra, 824 F.3d at 1159. Further, and as
17 this point cannot be corrected by amendment, dismissal of this claim, with
18 prejudice, is appropriate. Albrecht, supra, at 195.

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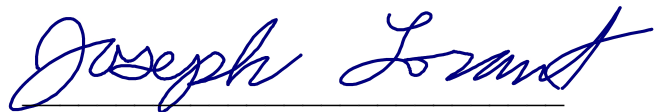
1 **V. CONCLUSION**

2 Based on the foregoing, Desert Valley Hospital respectfully requests that its
3 motion to dismiss be granted, with prejudice, as to the Seventh Cause of Action
4 for Negligence, on both the Wrongful Death and survival action claims.

5
6 Dated: July 18, 2025

GIOVANNIELLO LAW GROUP

7
8 By:



Alexander F. Giovanniello

Joseph M. Lorant

Attorneys for Defendant

DESERT VALLEY HOSPITAL, LLC dba

DESERT VALLEY HOSPITAL

PROOF OF SERVICE

I am employed in the county of Orange, State of California. I am over the age of eighteen and not a party to the within entitled action; my business address is Six Pointe Drive, Suite 520 Brea, California 92821.

On **July 18, 2025**, I served the foregoing document(s) described as, NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFFS' COMPLAINT BY DEFENDANT DESERT VALLEY HOSPITAL, LLC dba DESERT VALLEY HOSPITAL as follows:

See below service list

() BY U.S. MAIL: I am "readily familiar" with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice the envelope was sealed and placed for collection and mailing with the United States Postal Service on that same day with postage thereon fully prepaid at Brea, California following ordinary business practices.

() BY FEDERAL EXPRESS OVERNIGHT: I placed said envelope(s) for collection and overnight delivery at a regularly utilized drop box of the overnight delivery carrier.

(XX) BY ELECTRONIC SERVICE: I caused the document(s) to be sent from kks@giolawgroup.com to the person(s) at the electronic notification addresses indicated on the service list.

Executed on **July 18, 2025**, at Brea, California.

(XX) STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Kristy K. Shimotani

Kristy K. Shimotani

1 SERVICE LIST

2

3 Dale K. Galipo

Counsel for Plaintiffs

4 Marcel F. Sincich

5 LAW OFFICES OF DALE K. GALIPO

6 21800 Burbank Boulevard, Suite 310

7 Woodland Hills, CA 91367

8 Tel: (818) 347-3333

9 Fax: (818) 347-4118

10 Email: msincich@galipolaw.com

11 Email: dalekgalipo@yahoo.com

12

13 Edward Southcott, Jr.

Counsel for Defendant, County of San

14 Shannon Gustafson

Bernardino and Shannon D Dicus, Sheriff

15 LYNBERG AND WATKINS

16 1100 WestTown and Country Road, Suite 1450

17 Orange, CA 92868

18 Tel: (714) 937-1010

19 Fax: (714) 937-1003

20 Email: esouthcott@lynberg.com

21 Email: sgustafson@lynberg.com

22

23

24

25

26

27

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